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REMARKS

In the above-mentioned Office Action, the Examiner rejected claims 9, 18, and 19 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention; rejected claims 1, 2, 5-7, 10, 11, and 13-16 under 35 U.S.C. § 102(b) as being anticipated by Chasc (U.S. Patent No. 3,414,268); rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Chase; rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Chase in view of Andrikian (U.S. Patent No. 5,383,668); rejected claims 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Patterson (U.S. Patent No. 5,301,950); and indicated that claims 3, 4, and 9 are allowable over the prior art.

Applicants have amended claims 1 and 12 to improve the form and not for any purpose related to patentability. Applicants note that the Examiner did not object to or reject claims 1 or 12 with respect to the changes made to the claims in the present amendment. Thus, no limits should be placed on the application of the Doctrine of Equivalents to claims 1 and 12.

The Examiner rejected claims 9, 18, and 19 under 35 U.S.C. § 112, second paragraph. Applicants have amended claims 9 and 18, thereby obviating the Examiner's rejections. Applicants request that the Examiner withdraw the rejections.

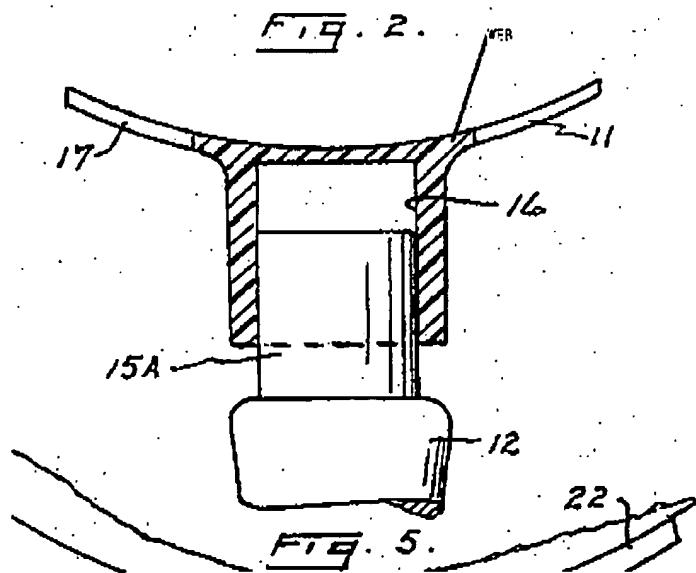
The Examiner then rejected claims 1, 2, 5-7, 10, 11, and 13-16 under 35 U.S.C. § 102(b) as being anticipated by Chasc. With respect to claim 1, the Examiner indicated that Chase "discloses a golf tee comprising a base (12), a shaft (15A) connected to the base and a top portion (11) having a plurality of legs (17). The top portion includes a web member that

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extends between the legs and connects them. This web member is independent of the shaft."

Office Action at p. 2.

Applicants note that the Examiner did not mention or specify what portion of the golf tee in Chase is the web member. Applicants can only assume that the portion noted "WEB" below in Fig. 2 of the reference is what the Examiner considers to be the web that joins the legs. However, that "WEB" does not extend between the legs and is not independent of the shaft. Rather the "WEB" noted below is part of the cup 16 as the reference states that the petal shaped elements (legs) extend radially from the cup 16. Col. 2, lines 28-29. Since the legs extend radially up from the cup, Applicants assert that the portion marked "WEB" cannot extend between the legs.



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Furthermore, the interpretation of the parts of the reference by the Examiner leads to an inconsistent result. The Examiner has indicated that the shaft is element 15A, and that the elements 17 are the legs. However, if elements 17 are the legs, element 15A is the shaft, and the reference anticipates claim 1 (where the legs are attached to the shaft). Applicants do not understand how the legs 17 are attached to the shaft 15A in Chase. This interpretation of the reference ignores element 16, the cup or base. The legs 17 are not connected to the shaft as required by the claim. And if the Examiner were to consider them to be connected to the shaft, then the "WEB," which comes between the legs 17 and the shaft 15A, cannot be independent of the shaft.

Applicants assert the construction of the Chase reference by the Examiner is either improper or that it does not disclose or suggest each and every element of the claim. Therefore, the Examiner must withdraw this rejection.

Claim 2, depending from allowable claim 1, is allowable for at least the same reasons.

In rejecting claim 5, the Examiner noted that the top portion is made from a flexible material that is inherently collapsible to some extent. Claim 5 depends from allowable claim 1 and is allowable for at least the same reasons. An additional reason is that the tee in Chase has a point 14 at the end of the shaft 12 to be inserted into the ground. Applicants are unaware of any tee with a point as in Chase that would be used with a practice mat as required by this claim. Tees that are used with a practice mat would have a flat bottom. Claim 5 is allowable for this additional reason.

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Claims 6 and 7, also depending from allowable claim 1, are also allowable for at least the same reasons as noted for claim 1 above.

With respect to claim 10, the Examiner alleges that Figs. 7 and 8 of Chase show openings between the legs. However, the embodiment illustrated in Figs. 7 and 8 suffer from the same deficiency that the other embodiments in Chase do as described above with respect to claim 1. Therefore, claim 10 is allowable for at least the same reasons.

With respect to claim 11, the Examiner alleges that a golf ball seated on the legs 17 will only contact the top portion. Office Action at p. 3. However, claim 11 requires that only a portion of the at least three legs contact a golf ball placed thereon. As is clear by the claim, the top portion and the at least three legs are not the same and the golf ball illustrated in Fig. 5 of Chase (see also col. 2, lines 39-40) appears to contact more than just the legs 17. Therefore, Chase does not disclose or suggest the claimed invention and this claim is allowable.

Regarding claim 13, the Examiner indicated that claim 13 recites substantially similar limitations as claim 1 and therefore the rejections of claim 1 apply to claim 13. However, the rejections of claim 1 were shown above to be deficient and they are here too for substantially the same reasons. That is, claim 13 requires that the three legs are connected to the shaft and that was shown above not to be case. This claim is allowable for at least the same reasons as claim 1 as noted above.

The Examiner indicated that Chase discloses all of the elements of claim 14, specifically indicating that the base 12 in Fig. 8 is an enlarged base. Applicants disagree that element 12 is a base. As indicated in Chase, element 12 is a shaft. See col. 2, lines 24, 57, 64; col. 3, lines 9,

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50, and 74. It is intended to be inserted into the ground and the bottom portion of the shaft 12 is a point 14. Thus, the base of the tee in Chase is not enlarged, but rather reduced in size. Thus, Chase does not disclose or suggest the invention claimed in claim 14.

Claims 15 and 16, depending from allowable claim 14, are allowable for at least the same reasons.

The Examiner then rejected claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Chase. The Examiner indicated that one of ordinary skill in the art would form the tee of Chase from a rubber or plastic material in order to take advantage of the material's well-known physical characteristics. First and foremost, the rejection fails to cure the deficiencies noted in the rejection of claim 1, the base claim from which this claim depends. As such, the claim is allowable for at least the same reasons.

The Examiner then rejected claim 12 under 35 U.S.C. § 103(a) as being unpatentable over Chase in view of Andrikian. Claim 12 depends directly from claim 1, which was discussed above and is allowable over Chase. The Examiner cited Andrikian for the proposition that a golf tee is disclosed that is used with a practice mat. The Andrikian reference does not cure the deficiencies noted above with respect to Chase. For this reason alone, claim 12 is allowable as the two cited references do not disclose or suggest, alone or in combination, the invention in claim 12.

There are additional reasons that claim 12 is not suggested by the combination of the two references. The Examiner indicated that one of ordinary skill in the art would have formed the tee of Chase with the enlarged base of Andrikian and utilized it with the practice

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mat for use in a driving range environment. Office Action at p. 4. However, the Examiner has not provided any reasoning as to why those two tees would or should be combined, thereby failing to present a *prima facie* case of obviousness. In fact, the references teach away from one another. The several different embodiments of the tee in Chase all have a pointed end that is to be inserted into the ground, a tee that is simply not usable on a practice range with a mat, the type of tee disclosed in Andrikian. Also, the Chase reference teaches away from using a shaft with the tee when it is to be used on a flat surface. At column 3, last three lines, Chase discloses that the top portion of the tee may be used without the shaft (or enlarged base) and as a flat tee resting directly on the ground as desired. Therefore, Chase teaches away from any modification to the bottom of the tee to be used on a flat surface, such as a practice range.

Additionally, the top portion of the tee in Chase is designed to allow the golf ball to easily rest on the top of the tee. However, the configuration of that top portion prevents a golfer from rolling a golf ball onto the tee. However, rolling a golf ball on to the tee is the whole purpose behind the configuration of the tee in Andrikian. Thus, there is no motivation to combine these two references and, as noted above, the combination does not render the claimed invention obvious. Thus, claim 12 is allowable over the references.

The Examiner then rejected claims 17-19 under 35 U.S.C. § 103(a) as being unpatentable over Patterson. The Examiner alleges that the reference discloses a tee and method for teeing a golf ball comprising a plurality of legs (noted generally at 30), aligning the golf ball between the legs and using a golf club to push the golf ball up over the web

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member (32). Office Action at p. 4. The Examiner did admit that the reference lacks at three legs on the tee, but cited to a portion of the reference that indicates that more resilient strips may be provided. Id.

The Examiner alleges that element 30 are a plurality of legs. However, element 30 is indicated to be outer edges of the slots between the resilient strip and the remainder of the cylindrical, hollow stem portion that terminates at the upper end in a top opening forming a set portion on which the golf ball sits. Applicants cannot find a plurality of legs.

Second, claim 17 requires that there be a web member extending between the at least three leg portions, and that the golf ball rolls up over the web member and rests on the three legs. The Examiner alleges that the resilient strip 32 is the web member. However, the reference makes it clear that the resilient strip 32 functions as a leg and must be such that it provides support to the golf ball. See Col. 5, lines 19-31. Therefore, the resilient strip cannot function as the web member and the reference fails to disclose or suggest the claimed method in claims 17-19.

In light of the foregoing remarks, this application is now in condition for allowance and early passage of this case to issue is respectfully requested. No fee is believed to be due with this submission.

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The Patent Examiner is welcomed to telephone the undersigned to discuss the merits of this patent application.

Respectfully submitted,



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